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16 Attorneys for Defendant Pfizer Inc.

17 **UNITED STATES DISTRICT COURT**  
18 **SOUTHERN DISTRICT OF CALIFORNIA**

19 ANTICANCER, INC., a California  
20 corporation,

21 Plaintiff,

22 v.

23 PFIZER INC., a Delaware  
24 corporation,

Defendant.

Case No. 11 CV 0107 JLS (RBB)

**Joint Motion For Entry of  
Judgment and Dismissal**

**Ctrm:** Hon. Janis L. Sammartino

25 Plaintiff AntiCancer, Inc. ("AntiCancer") and Defendant Pfizer Inc. ("Pfizer"), by and  
26 through their respective counsel of record, hereby stipulate and move the Court to enter judgment in  
27 favor of Pfizer on AntiCancer's claims for infringement of U.S. Patent Nos. 6,649,159 (the "159  
28

1 Patent”), 5,569,812 (the “’812 Patent”), and RE39,337 (the “’337 Patent”) (collectively, “Patents-in-  
2 Suit”) and to dismiss with prejudice all claims in the Second Amended Complaint (ECF No. 72).

3  
4 WHEREAS AntiCancer filed a complaint (ECF No. 1) and initiated this action against Pfizer  
5 on January 19, 2011, and later filed a first amended complaint (ECF No. 19) and a second amended  
6 complaint (ECF No. 72), and WHEREAS AntiCancer asserted contract claims and claims for  
7 infringement of the ’812, ’337, and ’159 Patents against Pfizer;

8  
9 WHEREAS on March 12, 2012, Pfizer filed a motion for summary judgment of  
10 noninfringement (ECF No. 38), and, on June 1, 2012, the Court issued an order granting summary  
11 judgment in favor of Pfizer on AntiCancer’s claim for infringement of the ’812 patent;

12  
13 WHEREAS on March 27, 2015, Pfizer filed a motion for summary judgment of  
14 noninfringement of the ’337 Patent (ECF No. 104), and on April 20, 2015, the Court issued an Order  
15 dismissing AntiCancer’s claim for infringement of the ’337 Patent with prejudice (ECF No. 109);

16  
17 WHEREAS on June 13, 2016, Pfizer filed a motion for summary judgment of  
18 noninfringement of the ’159 Patent, and on July 19, 2016, the Court issued an order dismissing  
19 AntiCancer’s claim for infringement of the ’159 Patent with prejudice (ECF No. 141);

20  
21 WHEREAS on September 28, 2012, AntiCancer’s contract claims were dismissed with  
22 prejudice (ECF No. 86); and

23  
24 WHEREAS the Parties entered into a settlement agreement resolving all remaining issues in  
25 the case and agreed that Pfizer does not infringe the Patents-in-Suit.

26  
27 NOW THEREFORE, THE PARTIES RESPECTFULLY REQUEST that the Court

28  
1. Enter judgment in favor of Pfizer on AntiCancer’s claims for infringement of the ’812  
Patent, the ’337 Patent, and the ’159 Patent.

2. Dismiss with prejudice all claims in the Second Amended Complaint (ECF No. 72) and dispose of this action in its entirety. Each Party shall bear its respective attorneys' fees and costs in this action.

A proposed Judgment and Order is submitted herewith.

Dated: October 10, 2016

Respectfully submitted,

/s/ Olga Berson

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Attorneys for AntiCancer, Inc.

1 **CERTIFICATE OF SERVICE**

2 I am a resident of the State of California, over the age of 18 years, and not a party to the  
3 action. My business address is Morgan, Lewis & Bockius LLP, 1601 Cloverfield Boulevard, Suite  
4 2050N, Santa Monica, California. On October 10, 2016, I served the within documents:

5 **1. JOINT MOTION FOR ENTRY OF JUDGMENT AND DISMISSAL**

6 **2. [PROPOSED] JUDGMENT AND DISMISSAL**

7  
8 ☒ I hereby certify that on October 10, 2016 I electronically filed the foregoing with the  
9

10 Clerk of the Court using the CM/ECF system, which will then send a notification of  
11 such filing (NEF) to all counsel of record.

12  
13 Executed on October 10, 2016 in Santa Monica, California.

14  
15 s/ Olga Berson

16 Olga Berson  
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